

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00427-BNB

C. E. WALKER, also known as
CORTEZ EDWARD WALKER,

Applicant,

v.

[NO NAMED RESPONDENT],

Respondent.

ORDER OF DISMISSAL

Applicant, C. E. Walker, also known as Cortez Edward Walker, currently is incarcerated at the Denver County Jail. His alias has been added to the caption of this order. Mr. Walker submitted *pro se* a letter (ECF No. 1) to former Chief Judge Edward W. Nottingham. He appeared to be attempting to supplement a prior dismissed lawsuit initiated pursuant to 28 U.S.C. § 2241, *Walker v. Stanley*, No. 06-cv-01252-ZLW (D. Colo. Sept. 1, 2006), *appeal dismissed*, No. 06-1406 (10th Cir. Feb. 15, 2007), which challenged the revocation of his parole when he was in the custody of the Colorado Department of Corrections and incarcerated at the San Carlos Correctional Facility in Pueblo, Colorado. Mr. Walker failed to clarify whether he is awaiting sentencing on new criminal charges and/or facing a parole revocation hearing.

Magistrate Judge Boyd N. Boland reviewed the letter and determined it was deficient. On February 19, 2014, Magistrate Judge Boland entered an order directing Mr. Walker within thirty days to cure certain enumerated deficiencies in the letter he

filed. Magistrate Judge Boland directed Mr. Walker to obtain, with the assistance of his case manager or the facility's legal assistant, the Court-approved forms for filing a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action and an Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. The February 19 order directed Mr. Walker to complete and submit those forms. Specifically, Mr. Walker was ordered to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action, together with a certificate showing the current balance in his prison account. Alternatively, he was informed he could pay the \$5.00 filing fee for a habeas corpus action. He also was directed to submit a § 2241 application that named as Respondent his current warden, superintendent, jailer, or other custodian.

On March 4, 2014, Mr. Walker submitted a letter in response to the February 19 order to cure. However, he failed within the time allowed to cure any of the deficiencies in this case. Therefore, the action will be dismissed without prejudice for Mr. Walker's failure to cure the designated deficiencies as directed within the time allowed.

Finally, the Court certifies pursuant to § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status will be denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Mr. Walker files a notice of appeal he also must pay the full \$505.00 appellate filing fee or file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24.

Accordingly, it is

ORDERED that the action dismissed without prejudice pursuant to Rule 41(b) of

the Federal Rules of Civil Procedure for the failure of Applicant, C. E. Walker, also known as Cortez Edward Walker, to cure the deficiencies designated in the order to cure of February 19, 2014, within the time allowed. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied without prejudice to the filing of a motion seeking leave to proceed *in forma pauperis* on appeal in the United States Court of Appeals for the Tenth Circuit. It is

FURTHER ORDERED that any pending motions are denied as moot.

DATED April 9, 2014, at Denver, Colorado.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK
Senior Judge, United States District Court